2

STAT

ARTICLE APPEARED
ON PAGE I-6

LOS ANGELES TIMES
17 MARCH 1979

Turner Urges Legislation to Bar Disclosure of Secrets in National Security Cases

BY RONALD J. OSTROW
Times Staff Writer

WASHINGTON—CIA Director Stansfield Turner said Friday that defense lawyers in national security cases are "shotgunning all kinds of requests" for release of sensitive intelligence information as a device for getting their clients off without a trial.

Turner, in an interview with The Times, called for legislation to create new legal mechanisms for trying such cases without giving away national secrets.

His comments came in the wake of federal prosecutors' voicing of doubt that former Acting FBI Director L. Patrick Gray III can be tried on break-in conspiracy charges because doing so might require the release of material affecting national security.

Turner's remarks are the strongest yet by an Administration official on what prosecutors see as the increasingly troublesome problem of "gray mail." The term refers to defendants' requests for intelligence information they contend they need in their cases, but which they are relatively sure the government will believe it cannot release.

What defendants can get in national security cases "by cross-examination and discovery (the process under which prosecutors are required to turn over relevant government materials) is an open hunting ground," Turner said.

"We ought to have a way of adducing national security information in a court procedure that doesn't guarantee it will get out in the public domain, unless a judge really decrees that you cannot hold the trial without it," Turner said.

"Now, if a fellow asks in discovery for totally irrelevant information to the trial, which he knows we won't disclose, he has a chance of getting the thing aborted," Turner said.

Practices in handling such problems vary from judge to judge, Turner noted. He said legislation is needed to create a uniform procedure nationwide.

The CIA director said that, if a judge does agree to keep material secret, the problem of what to do with it after the trial is completed arises.

"We've got one case right now where the data which was used is locked in our safe, and our safe is locked in the judge's safe," he said. "We're very concerned about who is going to come twiddling dials six months from now when it (the case) is in the appeals procedure."

Lawyers in the Justice Department's criminal division are studying various legislative options and hope to propose a solution in the next month or two, an official there said Friday.

One means under study would call for a closed-door, pretrial hearing to determine whether sensitive material a defendant sought would be relevant to his defense.

The Justice Department tried but failed in January to persuade U.S. Dist. Judge Aubrey Robinson Jr. to adopt such a procedure in the prosecution of an International Telephone & Telegraph Corp. executive for perjury in connection with Senate testimony.

The government then dropped the charges against Robert Berrellez, who had been accused of six counts of lying about unsuccessful efforts by ITT to interfere in the 1970 Chilean election.

The Justice Department also is considering proposing legislation under which it would have the right to appeal a ruling on the relevancy of national security information without first having to go to trial.